

**BOARD OF REGISTRATION IN PHARMACY**  
**MEETING MINUTES**  
**NOVEMBER 17, 2009**  
**239 CAUSEWAY STREET, ROOM 206**  
**BOSTON, MA 02114**

**Board Members**

**Present**

James T. DeVita, R.Ph., Stanley Walczyk, R.Ph., Sophia Pasedis, R.Ph., Pharm.D., Joanne Trifone, R.Ph., George Cayer, R.Ph., Michael Tocco, R.Ph, M.Ed., Steve Budish, Donald Accetta, M.D., MPH, Kathy Fabiszewski, Ph.D., N.P., William Gouveia, R.Ph., M.S.

**Staff Present**

James D. Coffey, R.Ph., Director; Margaret Cittadino, M.Ed., Associate Director; Leo McKenna, R.Ph., Pharm.D., QA Coordinator; Samuel Penta, R.Ph., Supervising Investigator; Cheryl Latham, Pharm.D., Investigator; James C. Emery, Pharmacy Technician, Investigator; Raymond Yu and Chris Spitzer, Board Interns

1. 8:30 a.m. CALL TO ORDER - President James T. DeVita, R.Ph.

2. 8:35 a.m. REVIEW/ADOPTION OF BOARD MINUTES

**Motion** Trifone/Tocco to approve May 12, 2009, June 2, 2009, June 23, 2009 and July 14, 2009 Minutes as presented.

Approved

3. 8:40 a.m. LICENSING: Applications – Associate Director Cittadino

Relocation

**Worcester Family Pharmacy**, 95 Lincoln Street, Worcester (DS3523) TO  
108 Grove Street, Suite 12, Worcester, MA

Change of Manager

**Coram Specialty Infusion Services**, 575 University Avenue, Norwood (DS3601)

**CVS 2162**, 300 Longwood Avenue, Boston (DS2687)

**CVS 2254**, 137 South Main Street, Milford (DS2866)

**CVS 1221**, 50 Medway Road, Milford (DS2988)

**CVS 717**, 36 White Street, Cambridge (DS24854)

**CVS 2959**, 136 Endicott Street, Danvers (DS89636)

**CVS 2592**, 468 Blue Hill Avenue, Dorchester (DS3011)

**CVS 720**, 2235 Dorchester Avenue, Dorchester (DS1003)

**CVS 1132**, 13 ½ Pond Street, Newburyport (DS1734)

**CVS 1869**, 1080 Falmouth Road, Hyannis (DS3337)

**CVS 73**, 194 Main Street, Amesbury (DS2366)

**CVS 1873**, 435 West Central Street, Franklin (DS2880)

**Rite-Aid 10213**, 510 Wilbur Avenue, Swansea (DS2612)

**Rite-Aid 10071**, 25 Park Street, Lee (DS2553)

**Walgreens 1478**, 501 Foundry Street, North Easton (DS3429)

**Walgreens 6739**, 54 Plain Street, Lowell (DS1896)

**Walgreens 3337**, 135 Broadway, Lawrence (DS2626)  
**Walgreens 7617**, 800 River Street, Haverhill (DS3342)  
**Wal-Mart 10 1970**, 280 Washington Street, Hudson (DS2743)  
**Wal-Mart 10 2228**, 555 Hubbard Avenue, Pittsfield (DS2746)  
**Western Mass Compounding Center**, 138 Memorial Avenue, W. Springfield (DS2976)

Renovation/Expansion

**CVS 159**, 516-522 Main Street, Melrose (DS16605)

Relocation of Wholesale Distributor

**Medline Industries**, 50 Hampton Road, Mansfield (WD458) TO 560 West Street, Mansfield

**Motion** Gouveia/ Cayer to approve applications.

Approved.

Recused: Trifone on Walgreens applications; DeVita and Tocco on CVS applications.

4. 8:40 a.m. UPDATES and NOMINATIONS – Director Coffey

- Introduction of Board Interns Ray Yu, Northeastern University; Chris Spitzer, Mass. College of Pharmacy
- Order Pursuant to M.G.L. c. 111, s. 5A: Prescribing and Dispensing Tamiflu® for Oral Suspension and Guidelines for Prescribing and Dispensing Tamiflu®
- Multi-State Pharmacy Jurisprudence Examination (MPJE®)
- 2010/2011 Drug Store (Pharmacy) Renewals
- Board Dispositions

NOMINATIONS for 2010 Board Officers: President Elect/Secretary

**President Elect**

Sophia Pasedis nominated by Kathy Fabiszewski

Michael Tocco nominated by George Cayer

Stanley Walczyk nominated by Joanne Trifone

**Secretary**

Sophia Pasedis nominated by Stanley Walczyk

Stanley Walczyk nominated by George Cayer

5. 9:00 a.m. REPORT OF OFFICE OF INVESTIGATIONS

File Review - Samuel J. Penta, R.Ph., Supervising Investigator;  
 James C. Emery, Investigator, Cheryl Lathum, Pharm.D., R.Ph.,  
 Investigator, Leo A. McKenna, Pharm.D., R.Ph., QA Coordinator

	DOCKET	BOARD ACTION
1	PHA2009-0162	Motion Cayer/Gouveia to dismiss pharmacist complaint. Approved
2	PHA2009-0094 SA INV 0651 PHA2009-0092 PHA2009-0093	Motion Cayer/Gouveia to accept voluntary surrender for pharmacist (PHA2009-0093) and pharmacy

	Cont.	complaint (PHA2009-0094 SA INV 0651). Approved Motion Cayer/Gouveia to Dismiss without Prejudice pharmacist complaint (PHA2009-0092) Approved
3	PHA2009-0068	Motion DeVita/Pasedis to dismiss pharmacy complaint with Advisory Letter. Approved
4	PHA2009-0157 PHA2009-0174 PHA2009-0175	1. Motion Cayer/Trifone to dismiss pharmacist complaint with Advisory Letter, including advisement as to verification at time of pick-up, training, workflow, and follow-up in compliance related to quality assurance procedures. Approved Opposed/Walczyk Abstained/Tocco  2. Motion Cayer/Trifone to dismiss pharmacy technician complaint with Advisory Letter and two hours continuing education in medication error prevention. Approved  3. Motion Tocco/Pasedis to dismiss pharmacy complaint. Approved
5	PHA2009-0166 SA INV 85 Pharmacy Technician complaint to be opened	Motion Pasedis/Cayer to dismiss pharmacist and pharmacy technician complaints with Advisory Letter and two hours continuing education in medication error prevention. Approved
6	PHA2009-0165 SA INV 0856 Pharmacist complaint to be opened	1. Motion Pasedis/Cayer to dismiss pharmacist complaints with Advisory Letter to two verifying pharmacists Approved  2. Motion Pasedis/Walczyk to dismiss pharmacy complaint. Approved Opposed/Trifone
7	PHA2009-0147 Pharmacist Manager of Record complaint to be opened	1. Motion Accetta/Walczyk to communicate with Board of Registration in Medicine regarding

		<p>prescriber conduct in pharmacy complaint. Approved</p> <p>2. Motion Cayer/Pasedis to dismiss pharmacist complaint with Advisory Letters to Manager of Record (Self Assessment form to be completed and notification to corporate office) and the pharmacist shall complete two hours of law continuing education. Approved</p> <p>3. Motion Budish/Tocco to dismiss pharmacy complaint with Advisory Letter to the pharmacy with copy to corporate office, with advisement as to duties of technicians, technicians in training and cashiers. Approved</p>
8	<p>PHA2009-0118 PHA2009-0188</p>	<p>Motion Pasedis/DeVita to dismiss pharmacist complaint with Advisory Letters and two hours continuing education related to patient consultation. Approved Opposed - Cayer Abstained – Tocco</p> <p>2. Motion Devita/Pasedis to dismiss pharmacy complaint with an Advisory Letter with recommendation of enhanced prescription notes fields. Approved</p>

**Motion** Trifone/Tocco 10:50 a.m. to enter Closed Session.  
Approved.

6. 10:50 a.m. LEGAL/REPORT OF OFFICE OF INVESTIGATIONS  
Pending Legal Matters - Susan Manning, Board Counsel  
MGL c. 112, s. 65C and MGL c. 30A, s. 11A

11: 40 a.m. **Motion** Pasedis/Trifone to return to Open Session.  
Approved

In the Matter of Docket No. PH-07-059/**Michael J. Duggan**, R.Ph. (PH 25866).  
Board reviewed proposed *Final Decision and Order by Default*.

**Motion** Walczyk/Gouveia to adopt proposed *Final Decision and Order by Default* and indefinitely suspend pharmacist registration; three years Board

approved screens required prior to consideration of re-licensure inquiry; terms to be determined.

In the Matter of Docket No. PHA-0176/**Toni-Joy Burke**, R.Ph. (PH 25876).  
Investigator Penta reviewed complaint allegations.

**Motion** Walczyk /Cayer to summarily suspend if no resolution by surrender of technician registration.

Approved

In the Matter of Complaint Docket No. PH-07-064/ **Hai Huynh**, R.Ph. (PH 24888). AHC Mitchell Goldstein advised the Board (11/12/09) that he had reviewed the decision issued by the Board, as well as the *Motion for Reconsideration* (Motion) and *Additional Objections* filed by Hai Huynh, and that he "would have made the same or similar credibility determinations" as made by Board in the *Final Decision and Order* issued by the Board in this matter. The Board denied the request for a hearing on the Motion.

a) After discussion, **Motion** Tocco/DeVita to grant the Motion; reconsider the *Final Decision and Order*; and review the *Additional Objections*.

Approved

b) After review and discussion of the *Final Decision and Order* and all objections filed with the Board, **Motion** Tocco/Cayer to make no revision to sanction and issue *Final Decision and Order after Reconsideration*.

Approved

In the matter of Complaint Docket No. PH-07-067/**Martin S. Siegal**, R.Ph. (PH 13033 /Revocation: 02/10/1999). Review of *NAPLEX/MPJE Examination and Licensure Application* (9/17/09) and request for additional extension of internship status (initial approved commence date: 4/30/2007 through 8/02/2008); extension requested and approved 12/4/08 to 10/31/2009).

a) After review and discussion of request for second extension of internship status, **Motion** by Walczyk/Tocco to deny second extension of internship status (dates: 4/30/2007 – 10/31/09).

Approved

Opposed/Accetta

b) After review and discussion of Licensure Application and matters resulting in license revocation in 1999 (Complaint Docket No. PH-97-098; U. S. District Court Case No. 1:97CR1002-001), **Motion** by Tocco/Budish to deny Licensure Application based on moral character issues relevant to Licensure Application Question G.

Approved

In the matter of Complaint Docket No. PHA-2009-0064/ **Jennette Ferry** (PT 9723; summarily SUSPENDED 5/15/09).

**Motion** by Tocco/Trifone to adopt *Final Decision and Order by Default* revoking pharmacy technician registration.

Approved

In the Matters of Complaint Dockets Nos. DS-0729-006, DS-08-012, DS-08-014, DS-08-019, DS-08-042, DS-08-043, DS-08-093 and 20080818DS010/**North Shore Pharmacy** (Reg. No. 3458). Licensee declined to accept proposed Consent Agreement terms. Board did not schedule any additional appearances; matters to be referred to Office of Public Protection for issuance of *Order to Show Cause*.

In the Matter of Complaint Docket No. PHA 2009-0176/**Jeffrey B. Buck**. (PI 155004). Investigator Penta advised the Board of pending charges (three domestic assault charges; Boston Municipal Court, W. Roxbury Div. Nos. 09 06CR 3096 and 09 06 CR 2879). Mass. College of Pharmacy and Health Sciences has also made disciplinary findings (10/21/09).

**Motion** by Pasedis/Accetta to place Intern permit on probationary status until graduation, with monitoring by MCPHS Dean.

Approved

Opposed/DeVita

#### PROBATION MONITORING/REPORT OF COMPLIANCE

Karen Fishman, Probation Monitor

In the matter of Complaint Docket No. PH-07-067/**Rodney E. Finch**, R.Ph. (PH19204) Request for Termination of Probationary Monitoring Condition.

**Motion** Pasedis/Budish to terminate monitoring condition of probation.

Approved

7. 12:00 p.m. **NEW COMMUNITY PHARMACY APPLICATION/Appearance**  
**ONCOMED PHARMACEUTICAL SERVICES OF MA**  
Proposed: 150 Bear Hill Road, Waltham, MA

Proposed Manager of Record – Jake P. Nichols, Pharm.D., R.Ph., MBA, BCPS, (Pharmacist License No. 24752 / Exp. 12/31/2010), CEO and Managing Partner, Burt Zweigenhaft and consultant Ernest P. Gates, Jr., R.Ph., FASCP.

Proposed pharmacy seeks to provide specialty services related to bio-oncology and hematology parenteral infusion services (Schedule II-VI controlled Substances). The applicant has submitted a petition to waive 247 CMR 6.02 (4) (sufficient variety and supply) and 9.01 (15) (limited services).

**Motion** DeVita/Tocco to approve application with waivers requested pending compliant inspection.

Approved.

LUNCH 12:45 p.m.

8. 1:30 p.m. NEW COMMUNITY PHARMACY APPLICATION/Appearance  
**INFUSION RESOURCE, LLC DBA CLINICAL CARE AMERICA** –  
69 Hickory Drive, Waltham, MA.

Proposed Manager of Record – Kathleen McTernan, Pharm.D., R.Ph.  
(PH22124/Exp. 12/31/2010) and Health Care Consultant, Robert A. Smaglia,  
R.Ph. (PH16127/Exp. 12/31/2010).

Applicant proposes to dispense Schedule II-VI controlled substances and engage  
in parenteral infusion services. Waivers requested for 247 CMR 6.02(4)  
(sufficient variety and supply) and 9.01(15) (limited services).

**Motion** Pasedis/DeVita to approve application with waivers requested pending  
compliant inspection.

Approved

Recused/Gouveia

9. 2:00 p.m. DISCUSSION on Draft Policy on the *Transfer of an Original Schedule VI  
Prescription not Dispensed*.

Discussions of revisions to be made to policy.

10. 2:10 p.m. FLEX DISCUSSION

New Business

- a) **Latoya Jones Kennedy** - reciprocal pharmacist licensure.

**Motion** Trifone/Pasedis to approve application.

Approved

- b) **Evelyn P. Tejada**, R.Ph. (PH22236/Exp. 12/31/2006).

Request for reinstatement.

**Motion** DeVita/Pasedis for 750 hours Internship, Charter Oak course, and  
MPJE.

Approved

- c) NABP/AACP District I Annual Meeting Fall 2011 – Pharmacy Board staff  
will assist in planning process for this meeting.

OLD BUSINESS

- a) In the Matter of **PharMerica** (DS3559)/Complaint Docket Nos. PHA-2009-  
0090 and SAINV-0281.

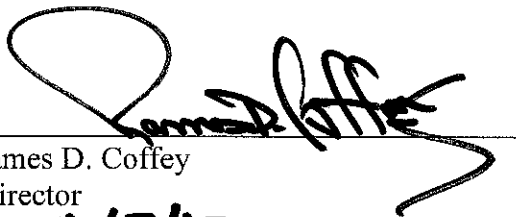
**Motion** DeVita/Trifone to propose reprimand to PharMerica with  
recommendation for bar-coding upgrade.

Approved

Recused/Tocco and Cayer

11. 2:30 p.m. ADJOURNMENT  
**Motion** Trifone/DeVita to adjourn meeting.  
Approved

Respectfully submitted by:

  
James D. Coffey  
Director  
Date: 4/15/10

Reviewed by Counsel: April 9, 2010  
Draft approved: April 9, 2010  
Board approved: April 13, 2010

BOARD OF REGISTRATION IN PHARMACY  
CLOSED SESSION MINUTES  
NOVEMBER 17, 2009  
239 CAUSEWAY STREET, ROOM 206  
BOSTON, MA 02114

Closed Session – M.G.L. c. 112, s. 65C (Pending Complaints)  
M.G.L. c. 30A, s. 11A (Adjudicatory)  
Policy Development

10:50 a.m. **Motion** Accetta/Fabiszewski to enter Closed Session.  
Approved

Below listed matters were reviewed with Board members:

Docket No. PH-07-059/**Michael J. Duggan**, R.Ph. (PH 25866) - proposed *Final Decision and Order by Default*.

Docket No. PHA-0176/**Toni-Joy Burke** (PH 25876) - complaint allegations.

Docket No. PH-07-064/ **Hai Huynh**, R.Ph. (PH 24888). AHC Mitchell Goldstein advised the Board (11/12/09) that he had reviewed the decision issued by the Board as well as the *Motion for Reconsideration and Additional Objections* filed by Hai Huynh, and that he “would have made the same or similar credibility determinations” as made by Board in the *Final Decision and Order* issued by the Board in this matter.

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- proposed *Final Decision and Order by Default*.

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